



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We make Indiana a cleaner, healthier place to live*

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September 18, 1992

## NPDES GENERAL PERMIT RULE UPDATE (327 IAC 15-1 THROUGH 15-6)

The purpose of this mailing is to inform interested parties of the status of the NPDES general permit rules for storm water. Other informational updates are also included.

### General Permit Rules Status

The Water Pollution Control Board first adopted the rules in final form on June 10, 1992. The rule package was then completed by Permits Section staff and was forwarded to the Attorney General's (AG's) Office for the legal review. During their review, the AG's Office discovered a number of minor problems in the language of the rules and began working with IDEM's Office of Legal Counsel staff to reach a compromise. Due to the necessary changes, the Water Board recalled the rules at their August 12, 1992 meeting and re-adopted the rules (in final form) with the suggested revisions. It was the opinion of the AG's Office that the revisions were of an insignificant nature, so as not to warrant new public notice or public hearings for the proposed rules.

The rule package was then resubmitted to the AG's Office, which approved it on August 21, 1992. Approval was received from the Governor's Office on August 31, 1992. The rules were filed with the Secretary of State's Office on August 31, 1992. By law, the rules will become effective 30 days after filing with the Secretary of State's Office (i.e. on September 30, 1992). In accordance with 327 IAC 15-3-3(b), any person who intends to comply with the NPDES general permit rules must file a Notice of Intent (NOI) letter within 90 days following the effective date of the rule (in this case by December 29, 1992).

Many of the persons who have recently telephoned to inquire as to the status of the general permit rules have expressed some disbelief that the State of Indiana has the authority to allow NOI letters to be submitted after the October 1, 1992 federal deadline. According to 40 CFR Part 122.26(e), "Application deadlines". Any operator of a point source required to obtain a permit under paragraph (a)(1) of this section that does not have an effective NPDES permit covering its storm water outfalls shall submit an application in accordance with the following deadlines:



(1) For any storm water discharge associated with industrial activity identified in paragraph (b)(14)(i)-(xi) of this section, that is not part of a group application as described in paragraph (c)(2) of this section or which is not covered under a promulgated storm water general permit, a permit application made pursuant to paragraph (c) of this section shall be submitted to the Director by October 1, 1992".

Since the date of promulgation of Indiana's NPDES general permit rule is prior to the October 1, 1992 federal deadline for individual applications, and since the federal regulations are not clear as to a specific deadline for NOI letters, we feel the State does have the authority to specify a later NOI application deadline.

Also, due to the manner in which the rules were revised, all facilities with existing discharges of storm water in the state of Indiana which meet the criteria of the federal storm water regulations are automatically regulated (i.e. covered) by Indiana's NPDES general permit rules unless a group application or an individual application is filed. In order to comply with the rules, an existing discharger must file a NOI letter within 90 days after the effective date of the rule.

The NPDES general permit rules will be published in the October 1, 1992 Indiana Register. On or after October 1, 1992, copies of the publication will be available for public review at any public library in the State of Indiana. Copies also can be purchased from the Legislative Services Agency, 302 State House, Indianapolis, IN 46204-2789. Their phone number is (317) 232-9550. This Office will not be providing copies of the rules to the public.

### Individual Applications

Individual applications for storm water discharge permits are still due by October 1, 1992. Extensions of time to obtain and submit sampling data for the individual application will be granted by IDEM. The individual application must still be submitted by October 1, 1992. If the sampling data is not available at the time of submittal of the application, a cover letter may be attached to the application which indicates

- (1) why the sampling data is not included, and
- (2) when the applicant plans to submit the sampling data.

### Group Applications

The State of Indiana does acknowledge the group application for storm water permits which is being submitted to U.S. EPA as a way to comply with the federal and state laws. If your facility is part of a group application which has been approved by U.S. EPA, and your facility continues to be a part of the approved group, no additional applications need to be submitted to this Office. U.S. EPA has provided this Office with a listing of the facilities which are or have been participating in the group application process. If a group application is denied, or if your facility withdraws from a group application, then you must submit either an individual application by October 1, 1992 or a NOI letter by December 29, 1992.

NOI Form Letter

Indiana is not going to have form letters for NOIs for the general permit rules for storm water. Staff has not had the time to develop these form letters. It is not necessary that the NOI letter be submitted on a state form, as long as all of the required information is included in the NOI letter.

Several callers have recently asked just what is meant by 327 IAC 15-3-2(6) "A description of how the facility complies with the applicability requirements of the general permit rule." This means that a person should review the applicability requirements of the general permit rule for which they are submitting an NOI (i.e. 327 IAC 15-5-2 or 327 IAC 15-6-2) and provide a statement to demonstrate that they have verified that the rule applies to their facility and that they are not excluded from applying for the general permit. Here's an example of a possible response to this question: "XYZ Company is an existing facility which has 2 point source discharges of storm water which are not currently regulated by an NPDES permit. Both of these discharges are to an unnamed ditch which is a tributary to Sugar Creek. These discharges are not prohibited from coverage under 327 IAC 15-2-6. This facility is not in a subcategory with federal effluent guidelines for storm water."

EPA Response to Court Ruling on Storm Water Permits

On June 4, 1992 the Ninth Circuit Court of Appeals ruled that EPA exceeded its authority by exempting the following categories from storm water permit application requirements: light industrial activities (facilities listed in category (xi) of 40 CFR Part 122.21(b)(14)) which have no potential exposure of materials or material handling activities to storm water and construction sites which cause land disturbance of more than one and less than five acres. The court directed EPA to have further proceedings on the issues. EPA has announced its intention to carry out a formal rule making procedure and has indicated that until this procedure is complete, construction activities of less than five acres will not be required to apply for a storm water permit. EPA will issue a fact sheet soon detailing its official response to the court ruling. Important: See the Federal Register Notice of September 9, 1992, pp. 41344 - 41356.

EPA Guidance Manuals

EPA has recently finalized the Storm Water Sampling Guidance Manual, but they have only provided the states with a few copies. Due to the length of this document, it will be necessary for IDEM to charge a fee of \$.15 per page to reproduce and distribute this document. Since the document contains 180 pages, the cost will be \$27.00. Persons interested in ordering this document should submit a letter of request (including a check for \$27.00 made out to IDEM) to:

Catherine Hess, Storm Water Coordinator  
IDEM  
Office of Water Management  
Permits Section  
P.O. Box 6015  
Indianapolis, IN 46206-6015

EPA is developing two additional guidance manuals entitled "Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices" and "Storm Water Pollution Prevention for Industrial Activities". EPA advises that the final versions of these manuals will be available soon.

Guidance manuals may also be ordered from the Storm Water Hotline by calling (703) 821-4823.

### Clarification of Deadlines for Storm Water Applications

#### Existing Dischargers

For Industrial Activity: Individual Applications (U.S. EPA Forms 1 and 2F) are due October 1, 1992. NOI letters for the Indiana general permit rule are due December 29, 1992.

For Construction Activity: Individual Applications (Narrative, as described in 40 CFR 122.26(c)(ii)) are due October 1, 1992. NOI letters for the Indiana general permit rule are due December 29, 1992.

#### New Dischargers

For Industrial Activity: An Individual Application or a NOI letter is required to be submitted at least 180 days prior to start of operations.

For Construction Activity: An Individual Application must be submitted at least 90 days prior to start of construction. A NOI letter must be submitted prior to start of construction.

#### Fees

In accordance with 327 IAC 5-2-21, the application fee for an individual permit or for a general permit is \$50.00. Additionally, there is an annual fee of \$150.00 for the first storm water outfall and \$100.00 for each additional storm water outfall. The annual fee issue is currently being challenged in court.

#### Exemptions

If you determine that your facility is exempt from the requirements to submit an application for a storm water permit, it is strongly recommended that you put together a documentation file as to how that determination was made and keep it at the exempted facility. You are not required to send a letter or any documentation to this Office. If you choose to send in a letter of exemption, please include in the text of the letter: the name, address, SIC code of the facility, and a summary of the evaluation which was made. Please do not request written confirmation of your evaluation. Instead, you should include a closing statement such as, "Please contact us if you disagree with this evaluation." If you want to be certain that we receive your letter, you may send the letter by certified mail.

How to Comply with the General Permit Rule  
for Construction Activity  
(Soil Erosion Control)  
327 IAC 15-5

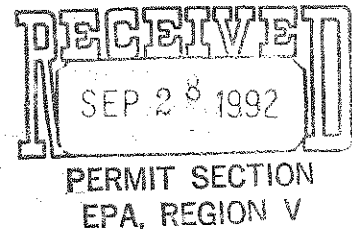
You must:

1. Pay the NOI letter fee of \$50.00 made payable to the Indiana Department of Environmental Management.
2. Prepare a soil erosion control plan that contains the required elements in 327 IAC 15-5-7.
3. Send the plan to the Soil and Water Conservation District office in the county where the construction activity will take place and to any appropriate State, county, and local soil erosion control authority. The SWCD will review the plan and make recommendations when necessary.
4. Be sure that the personnel responsible for installing and operating the plan know what they are doing. This may require some training for some.
5. Prepare and submit a complete Notice of Intent letter to:

Indiana Department of Environmental Management  
Office of Water Management  
105 South Meridian Street  
P.O. Box 6015  
Indianapolis, IN 46206-6015  
Attention: Permits Section, General Permit Desk

All of the requirements in 327 IAC 15-3-2 and 327 IAC 15-5-5 must be included in the NOI letter to be considered complete. Do not send a copy of the soil erosion control plan to IDEM.

6. Construction can begin immediately after fulfilling the requirements in 327 IAC 15.



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How to Comply with the General Permit Rule  
for Storm Water Discharge Associated with  
Industrial Activity

327 IAC 15-6

You must:

1. Pay the NOI letter fee of \$50.00 made payable to Indiana Department of Environmental Management.

2. Prepare and submit a complete Notice of Intent letter to:

Indiana Department of Environmental Management  
Office of Water Management  
105 South Meridian Street  
P.O. Box 6015  
Indianapolis, IN 46206-6015  
Attention: Permits Section, General Permit Desk

All of the requirements in 327 IAC 15-3-2 and 327 IAC 15-6-5 must be included in the NOI letter to be considered complete.

3. Prepare a pollution prevention plan that contains the required elements in 327 IAC 15-6-7.

4. The plan must be developed and implemented within 365 days from the date the NOI letter was submitted. It is not necessary to submit the plan to IDEM. Quarterly progress reports concerning the status of the plan must be submitted until the plan is completed. One initial sampling event must be performed during the development of the plan. Sampling data which has been obtained from storm water sampling which was performed in accordance with the federal storm water regulations and which is not more than 3 years old may be used to satisfy the first sampling requirement.

During the next one-year period after implementation of the pollution prevention plan, 2 additional sampling events must be performed at least 3 months apart. Thereafter, only semi-annual visual inspections are required, unless you are contacted by this office to perform additional physical sampling.

6. An annual report which contains the results of any sampling data and/or visual inspections are to be submitted to IDEM by January 28th of each year. Facilities which have a discharge regulated under this rule which enters a municipal separate sewer system must also submit a copy of the annual report to the operator of the municipal system.

3 total  
Sampling  
events



327 IAC 15-3-2 Content requirements of a NOI letter

Sec. 2. The NOI letter shall include the following:

- (1) Name, mailing address, and location of the facility for which the notification is submitted.
- (2) Standard Industrial Classification (SIC) codes, as defined in 327 IAC 5, up to four (4) digits, that best represent the principal products or activities provided by the facility.
- (3) The person's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity.
- (4) The latitude and longitude of the approximate center of the facility to the nearest fifteen (15) seconds, or the nearest quarter section (if the section, township, and range is provided) in which the facility is located.
- (5) The name and receiving water, or, if the discharge is to a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water.
- (6) A description of how the facility complies with the applicability requirements of the general permit rule.
- (7) Any additional NOI letter information required by the applicable general permit rule.
- (8) The NOI letter must be signed by a person meeting the signatory requirements in 327 IAC 15-4-3(g).

**NOTE:** Item #6 requires that you review the applicability requirements of the rule for which you are submitting a NOI letter, (i.e. 327 IAC 15-5-2 or 15-6-2), and provide a statement that the discharges from your facility comply with the rule's applicability requirements.

327 IAC 15-5-5 Additional NOI letter requirements

Sec. 5. In addition to the NOI letter requirements under 327 IAC 15-3, the following information must be submitted by the operator with a NOI letter under this rule:

- (1) A brief description of the construction project, including, but not limited to, a statement of the total acreage of the site.
- (2) Estimated timetable for land disturbing activities and installation of erosion control measures.
- (3) Statement of the number of acres to be involved in land disturbing activities.
- (4) A written certification by the operator that:
  - (A) the erosion control measures included in the erosion control plan comply with the requirements under sections 7 and 9 of this rule and that the plan complies with applicable State, county, or local erosion control requirements;
  - (B) the erosion control measures will be implemented in accordance with the plan;
  - (C) verification that an appropriate state, county, or local erosion control authority and the soil and water conservation district office has been sent a copy of the plan for review; and
  - (D) verification that implementation of the erosion control plan will be conducted by personnel trained in erosion control practices.
- (5) Proof of publication in a newspaper of general circulation in the affected area that notified the public that a construction activity under this rule is to commence.



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327 IAC 15-6-5 Additional NOI letter requirements under this rule

Sec. 5. In addition to the NOI letter requirements under 327 IAC 15-3, the following information must be submitted with the NOI letter under this rule:

(1) Name of responsible corporate officer and/or written authorization for an alternate person or position to act as the duly authorized representative for that person, if appropriate, who will be responsible for all signatory responsibilities for the facility under 327 IAC 15-4-3(g).

(2) Identification of the number and location of each point source discharge of storm water associated with industrial activity and the corresponding industrial activity associated with the drainage area of each point source discharge.

(3) Identification of substantially similar point source discharges of storm water on the site, and, if appropriate, the outfall to be monitored as representative of all such discharge points. Also, explain the rationale used to identify why certain point sources are similar.

LIST OF RECEIVING STREAMS TO WHICH DISCHARGE UNDER THE GENERAL  
PERMIT RULES FOR STORM WATER IS PROHIBITED

327 IAC 2-1-2(3) The following waters of high quality, as defined in subsection (2), are designated by the board to be an outstanding state resource and shall be maintained in their present high quality without degradation:

- (A) The Blue River in Washington, Crawford, and Harrison Counties, from river mile 57.0 to river mile 11.5.
- (B) Cedar Creek in Allen and DeKalb Counties, from river mile 13.7 to its confluence with the St. Joseph River.
- (C) The North Fork of Wildcat Creek in Carroll and Tippecanoe Counties, from river mile 43.11 to river mile 4.82.
- (D) The South Fork of Wildcat Creek in Tippecanoe County, from river mile 10.21 to river mile 0.00.
- (E) The Indiana portion of Lake Michigan.
- (F) All waters incorporated in the Indiana Dunes National Lakeshore.

327 IAC 2-1-11(b)

The following waters of the state are designated for exceptional use pursuant to 327 IAC 2-1-3(a)(6):

- (1) Big Pine Creek in Warren County downstream of the State Road 55 bridge near the town of Pine Village to its confluence with the Wabash River.
- (2) Mud Pine Creek in Warren County from the bridge on the County Road between Brisco and Rainsville to its confluence with Big Pine Creek.
- (3) Fall Creek in Warren County from the old C.R. 119 bridge in the NW quarter of Section 21, Township 22N, Range 8W downstream to its confluence with Big Pine Creek.
- (4) Indian Creek in Montgomery County from the County Road 650 West bridge downstream to its confluence with Sugar Creek.
- (5) Clifty Creek in Montgomery County within the boundaries of Pine Hills Nature Preserve.
- (6) Bear Creek in Fountain County from the bridge on County Road 450 North to its confluence with the Wabash River.
- (7) Rattlesnake Creek in Fountain County from the bridge on County Road 450 North to its confluence with Bear Creek.
- (8) The small tributary to Bear Creek in Fountain County within the Portland Arch Nature Preserve which enters Bear Creek at the sharpest bend and has formed the small natural bridge called Portland Arch.
- (9) Blue River from the confluence of the West and Middle Forks of the Blue River in Washington County downstream to its confluence with the Ohio River.
- (10) The South Fork of Blue River in Washington County from the Horner's Chapel Road bridge downstream to its confluence with Blue River.
- (11) Lost River and all surface and underground tributaries upstream from the Orangeville Rise (T2N, R1W, Section 6) and the Rise of Lost River (T2N, R1W, Section 7) and the mainstem of the Lost River from the Orangeville Rise downstream to its confluence with the East Fork of White River.